

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1531 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

BHAGABHAI CHELABHAI WAGHELA (NADIYA)

Versus

STATE OF GUJARAT

Appearance:

MR HR PRAJAPATI for Petitioner

MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 02/05/2000

ORAL JUDGEMENT

#. The petitioner - Bhagabhai Chelabhai Vaghela (Nadia) has been detained under the provisions of the Gujarat Prevention of Anti-Social Activities Act, 1985 ("PASA Act" for short) by virtue of an order passed by Commissioner of Police, Ahmedabad City, Ahmedabad, in

exercise of powers under Section 3(1) of the PASA Act, dated December 28, 1999.

#. The grounds of detention indicate that the detaining authority took into consideration three offences registered against the petitioner. The detaining authority also took into consideration the statements of two anonymous witnesses in respect of two incidents that occurred on November 26 1999 and December 3, 1999 and came to conclusion that the petitioner is a "bootlegger", that his activities are detrimental to public order, that fear expressed by the witnesses qua the petitioner was genuine and therefore, powers under section 9(2) of the PASA Act were exercised by the detaining authority by not disclosing identity of these witnesses.

#. The only contention that is raised by learned advocate Mr. Prajapati is that the representation made on behalf of the detenu has not been expeditiously considered with by the detaining authority, though directed by the government. This has resulted into infringement of right of the detenu of making an effective representation rendering the continued detention illegal.

#. Mr.K.T. Dave, learned AGP has opposed this petition.

#. Considering the rival side contentions, it is amply clear that the representation was made to the State Government on February 22, 2000 which was received by the concerned office on February 23, 2000. Directions were given by the State Government to the detaining authority to supply the documents demanded in the representation. The detaining authority by a communication dated March 27, 2000 supplied only two documents and intimated further that rest of the documents will be supplied as and when available. The detaining authority has still not supplied the documents. This delay in supplying the documents and non-supply of documents has resulted into infringement of the right of the detenu of making an effective representation. The continued detention of the detenu is, therefore, rendered bad in law. The petition, therefore, deserves to be allowed.

#. The petition is allowed. The impugned order of detention dated December 28, 1999 is hereby quashed and set aside. The detenu - Bhagabhai Chelabhai Vaghela (Nadia) is hereby ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no order as to costs.

[A.L. DAVE, J.]

pirzada/-